IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6571 of 1988
with
SPECIAL CIVIL APPLICATION NOS. 411 & 417 OF 1994.

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KADIA NAGINBHAI MANEKLAL
Versus
Y J DIXIT

Appearance:
MR JAYANT PATEL for Petitioner
Ms. Siddhiben Talati, AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE H.K.RATHOD
Date of decision: 10/03/2000

CAV JUDGEMENT

Learned advocate Shri Jayant Patel is appearing in all the three petitions on behalf of the petitioners. Learned AGP Smt. S.D Talati is appearing on behalf of the Respondents in all the three petitions.

In the present petitions, most of the facts and questions and the respondents are common, and therefore, all these three petitions are decided by this common judgment.

The brief facts of Special Civil Application No. 6571 of 1988 in the case of Naginbhai Maneklal Kadia are as under :-

The petitioner has passed Old SSC Examination in the year 1976 and also undergone the training of Gujarati Typing and Stenography and has successfully passed the said examination. The name of the petitioner was registered in the Employment Exchange at Gandhinagar and on that basis, the petitioner was called for an Interview by the Respondent and petitioner was appointed as a Gujarati Stenographer Grade-III by an order dated 24-3-1981 on temporary basis for a period of 29 days. Thereafter, the petitioner was appointed on 9.7.1985, 5-8-1985, 2-9-1985 as a temporary hand on 29 days basis. Thereafter, by an Order dated 29-3-1986, the petitioner was again appointed on temporary basis wherein, the period of service was not stipulated in the order. In all, the petitioner had worked continuously for a period of two years and six months. It is also important to note that by letter dated 7-11-1987, the Deputy Secretary of General Administration Department, State of Gujarat had informed to the concerned Commissioner that in service of the petitioner, which is continuous for more than one year without any break, therefore, the break should be given in service of the petitioner. That according to the petitioner, by letter dated 7-9-1988, it was decided by the respondent to terminate the service of the petitioner w.e.f 30-9-1988 as post in question is required to be abolished. In the said letter, the recommendation was made to the effect that petitioner may be absorbed either in Gandhinagar or Ahmedabad Office as his work was found to be satisfactory. In pursuance to the said letter dated 7.11.1987, the petitioner had preferred Special Civil Application No. 6217 of 1987 which was admitted and ad-interim relief was granted restraining the respondents from giving artificial break in service. During the pendency of the said petition, the petitioner had received a letter dated 7-9-1988 wherein it was decided to terminate the service of the petitioner w.e.f 30-9-1988 on the ground that the post in question is required to be abolished. Therefore, the present has been filed by the petitioner on 29.9.1988. Initially, this Court had issued a Notice on 29-9-1988 making it returnable on 10-10-1988 and status quo

regarding petitioner's service condition as existing today to be maintained till further order. The said relief was granted to the petitioner and thereafter petitioner was remained continued in service as per the interim order and resolution dated 4-3-1991 issued in respect to the petitioner by the respondent. During the pending of the said petition, the said petition was amended by Court's order dated 5.12.1991 and the said amendment was carried out by the petitioner. Thereafter, the said petition came up for admission hearing on 6.1.1992 and on that day, Rule was issued and following order was passed by this Court :-

> `Heard learned advocates appearing for the respective parties with regard to interim relief. in facts of the case, it is directed that the services of the petitioner shall not be terminated till the post is not abolished. The moment the post is abolished this interim relief shall also come to an end. On abolition of the post, it will not be obligatory upon the respondents to continue the petitioner in service'.

Thereafter, the post in question, Gujarati Stenographer Grade-III has been abolished and as a result thereto, the service of the petitioner has been terminated by an Order dated 29.8.1992. The Special Civil Application No. 6217 of 1987 filed by the petitioner, wherein the statement was made by the respondent as no decision has been taken by the respondent, and therefore, the petition is considered to be premature and the same is disposed of on 29.11.1990.

In the light of the above undisputed facts between the parties, the contention has been raised by the petitioner in paragraph 4 (2) that in case the petitioner Rule 33 of the Bombay Civil Service Rules are applicable and which provides that the service of a temporary Government servant cannot be terminated, except he is given one month's advance notice if he has completed the period of service exceeding one year and according to the petitioner, no such notice was served to the petitioner which amounts to contravention of Rule 33 of BCSR. The second contention has been raised that one Shri Arvind K Patel and Shri Rasikbhai Prajapati who are serving as a Stenographer Grade-III have been continued in service and whereas in arbitrary manner, decision was taken to terminate the service of the petitioner. Similarly, other two Gujarati Stenographers Grade-III working with the petitioner; Shri B.C Vyas and Shri D.D

Sonwani are regularized as per the Government Order dated 16.8.1991, therefore, the order of termination is arbitrary, discriminatory and in violation of Article 14 of the Constitution of India. The third contention has also been taken by the petitioner that according to the Government Resolution dated 31.3.1989, wherein inter alia it is provided that, if because of closure of any scheme or for any other reason, on abolition of the post on administrative reasons, any employee is declared surplus, then at that time, such employee should be accommodated on the available equivalent post or the post carrying next lower pay scale and if ultimately the question of relieving arises, the junior most, after considering the post carrying lower pay scale should be relieved. The petitioner has produced on record, the Government Resolution dated 31st March, 1989. According to the petitioner, the post carrying lower pay scale is that of Clerk-cum-Typist and in that said post one Shri B.C Vyas and Shri D.D Donwani were appointed on 9-3-1987 after the petitioner and subsequently both the said employees were regularized as per the Government Order dated 16.8.1991. Therefore, the respondents have not considered the Government Resolution dated 31.3.1989 which applied to the case of the petitioner also. The petitioner has produced on record, the termination order dated 29.8.1992 which is the result of the interim order passed by this Court on 16.1.1992.

The respondents Shri D.G Bhatt, Deputy Secretary and Director of Relief, Revenue Department has filed Affidavit-in-Reply on behalf of the respondents. The respondents have raised contention that petition is not maintainable as petitioner having alternative remedy either to approach the Gujarat Civil Services Tribunal or the Labour Court. It was also contended by the respondent that petitioner was given irregular appointment and petitioner was not appointed through G.P.S.C but he was given appointment on purely temporary and on ad hoc basis without following the prescribed procedure and in violation of statutory recruitment rules. The post in question was created for specific period and upon completion of the said period, the post has been automatically abolished. It is also stated that one Shri Rasikbhai Prajapati and Shri A.K Patel both were relieved on 30.9.1988 and Shri Patel was senior to the petitioner. It is also contended that no junior to the petitioner who has been appointed in the manner in which the petitioner was appointed, was continued in service. Therefore, according to the respondent, the said petition is required to be dismissed.

The petitioner has not filed any Rejoinder against the Affidavit-in-reply filed by the respondent. The petitioner has produced Annexure-L alongwith the Draft Amendment which is a latter of Deputy Collector and Under Secretary of the Revenue Department addressed to the Deputy Secretary [Litigation] of Revenue Department wherein it has been mentioned that petitioner was appointed after process of selection and post in question was created on temporary basis and petitioner was continued in service since long and if service of the petitioner is terminated, then it is very difficult for him to apply for any recruitment/competitive examination and question of age-bar comes in his way. Therefore, the service of the petitioner and one Shri A.K Patel are required to be regularized. Such recommendation was made by letter dated 27.2.1991 by the respondent.

The brief facts of Special Civil Application No. 411 of 1994 in respect of petitioner-Shri Harendrasinh Gopalji Dabhi are as under :-

The petitioner is holding qualification of SSC and his name was registered with the Employment Exchange. On the basis of the same, the petitioner was called for interview by the respondent for the post of Clerk on 19.9.1985 and the petitioner was selected for the post of Clerk by an Order dated 13.12.1985 and petitioner joined duty on 23.12.1985 and remained in service upto 17.5.1986. Meanwhile, artificial breaks in service were given. The petitioner was discontinued on 18.5.1986 and thereafter petitioner was appointed again on 16.7.1986 and thereafter petitioner's service was terminated by an Office order dated 25.2.1987. The petitioner has relied upon Circular dated 8.2.1991 and also contended that one Smt. Bhavnaben Mehta, Shri N.K Joshi, Shri Saiyed, Shri Pandya and Shri Surendrasinh Vaghela who are similarly situated have been regularized in service and they were also recruited through Employment Exchange and their services have been regularized on the basis of policy of the State Government. The petitioner had submitted application dated 29.2.1992 to the Collector, G.A.D gave reply on 4.12.1993 that petitioner is not entitled to be absorbed as a surplus employee as the petitioner was not regularly appointed by the respondent. In the present petition also, the petitioner has challenged the termination order on the ground that it violates Rule 33 of the BCSR which requirement is mandatory. In the present petition, Rule was issued on 24.6.1994. The respondent has not filed any reply or counter against the petition.

The brief facts of Special Civil Application No. 417 of 1994 in respect to Shri Manojbhai Chhaganbhai Gohil are as under ;-

The petitioner is holding qualification of H.S.C and his name was registered in the Office of Employment Exchange and he as appointed in the post of Clerk by an Order dated 18.10.1995 on temporary basis and petitioner had joined the duty on 19.10.1985. The petitioner remained continuously in service upto 10.6.1986. Thereafter, petitioner was appointed again on 16.7.1986 and remained in service upto 2.3.1987, as his service was terminated by an order dated 2.3.1987. The petitioner had submitted an application to the District Collector on 1.1.1993 which was replied on 4.12.1993 from the 2nd Respondent where the petitioner was informed that since the recruitment of the petitioner was not regularly made and therefore if the petitioner is declared surplus then service of the petitioner cannot be regularized. In the present petition also, the termination order is also challenged on the ground that it violates Rule 33-A of the BCSR. In the present petition, almost identical challenged as same is challenged in Special Civil Application No. 411 of 1994. In the present petition also Rule was issued on 24.6.1994 and respondent has not filed any reply or counter against the petition.

In all the three petitions almost one and same contentions are raised by learned advocate Shri Jayant Patel on behalf of the respective petitioners. That according to Mr. Patel Rule 33 (1)(b) of BCSR is applicable to the case of all the petitioners and no notice under the said Rule is served to the petitioners, and therefore, the orders of termination are illegal and void. Mr. Patel has relied upon the decision of Division Bench of this Court in the matter of Sub Divisional Soil Coservation Officer and Ors. v/s. MM Saiyad [1990 (1) GLR 495] and of Dhirubhai Jethabhai Patel and Others versus Sabarkantha District Panchayat & Anr. [1996 (1) GLRj (UJ) 29]. Mr. Patel submitted that it is undisputed fact that before terminating service of the petitioners, no notice under Rule 33 (1)(b) were served upon the petitioners. According to Mr. Patel, the petitioners were temporary Government servants and therefore Rule 33 of the BCSR shall be applicable. Such Rules are application to the employees working on the Work-Charge Establishments, as per the decision rendered in the matter of Dhirubhai Jethabhai Patel (supra). Mr. Patel further submitted that the Respondent has not implemented Government Resolutions dated 31.3.1989, 8.2.1991 and 18.9.1987. Similarly situated employees

were absorbed and their services have been regularized by the respondents.

Learned AGP Smt. Talati has submitted that the said Rule 33 (1)(b) is not applicable to the case of the petitioners herein as the petitioners were not appointed after following the due procedure of selection viz., through G.P.S.C., they were appointed dehors of the recruitment rules. The posts in question were created on temporary basis and same were abolished after completion of work. Therefore, petitioners are not entitled for any relief and all the three petitions are required to be dismissed. Learned AGP has relied upon decision reported in the matter of State of Gujarat and Anr. v. PJ Kumavat [AIR 1992 SC 1685] and pointed out that contractual appointment made by Chief Minister and Ministers appointing persons of their choice in service on their Establishments wherein appointment orders clearly stating that their services were liable to be terminated without notice and without giving any reason, and therefore, such appointees are not temporary government servants and therefore, similarly the petitioners were also appointed on 29 days basis and as per the terms of the appointment orders, their services are liable to be terminated without any notice. Therefore, petitioners are not entitled to any relief.

I have considered the submissions of both the learned advocates. It is now well settled law that if in fact the workman has worked continuously and the appointment letters were issued only with a view to deprive the workman of the benefit of the statutory provisions that wouldn't affect the right of the workman which accrued to him under the Act. The nature of employment is not judged by the terms of the letter issued by the employer but by the nature of duty performed and if contractual employment is resorted to as a mechanism to frustrate the claim of the workman to become regular or permanent against a job which was continuous or the nature of duty is such that colour of contractual agreement is given to take it out from the provisions of the Act, such an agreement cannot be regarded as fair or bona fide. The periodical renewal if are made to avoid regular status to a workman, they are to be ignored as such. A practice which has been adopted as a camouflage to circumvent the provisions of the Act which confers the benefit of permanency of workers who worked continuously for a period of more than 240 days cannot be allowed to be availed of by the employers.

The contention which has been raised by the

respondents that petitioners had voluntarily entered into a contract of service on the terms of employment offered to them. One of terms of that contract, embodied in the letter of his appointment is that his service was purely temporary and was liable to termination at the will and pleasure of the appointing authority, without reason and without notice. Having willingly accepted the employment on terms offered to him, the respondent cannot complain against the impugned action taken in accordance with those mutually agreed terms. The argument is wholly misconceived. It is borrowed from the archaic common law concept that employment was a matter between the master and servant only. In the first place, this rule in its original absolute form is not applicable to Government servants. Secondly, even with regard to private employment, much of it has passed into the fossils of time. This rule held the field at the time when the master and servant were taken more literally than they are now and when, as in early Roman Law, the rights of the servant, like the rights of any other member of the household, were not his own but those of his pater families.' The overtones of this ancient doctrine are discernible in the Anglo-American jurisprudence of the 18th Century and the first half of the 19th Century, which rationalised the employer's absolute right to discharge the employee. `Such a philosophy' as pointed out by K.K Mathew, J. [vide his treatise - `Democracy, Equality & Freedom' at page-326] of the employer's dominion over his employee may have been in tune with the rustic simplicity of bygone days. But that philosophy is incompatible with these days of large, impersonal corporate employers.' To bring it in tune with vastly changed and changing socio-economic conditions and mores of the day, much of this old, antiquated and unjust doctrine has been eroded by judicial decisions and legislation, particularly in its application to persons in public employment, to whom the constitutional protection of Articles 14, 15, 16 and 311 is available. The argument, therefore, cannot be accepted.

I have also considered the decisions of this Court in case of Ghanshyam M. Pandya versus State of Gujarat and others, (supra) and also the decision in case of Sub Divisional Soil Conservation Officer,IDAR and Anr. versus V.M.Saiyed (supra) and in case of Dhirubhai Jethabhai Patel and Other versus Sabarkantha District Panchayat and ANr. (suopra). I have also considered the decision of the Divsion Bench in Letters Patent Appeals Nos. 160 to 166 of 1990 dated 20.9.1991 which is related to Rule 33(1)(a) and (b) of the Bombay Civil Service Rules. In all the aforesaid decisions, said question has

been examined in detail by this Court. The ratio laid down by this Court in all the aforesaid cases is that Rule 33(1)(b) of the Bombay Civil Service Rules is applicable to the Temporary Government Servants and also a Government employee who appointed on 29 days' basis and also appointed on work charge establishment. The relevant observations in para 4 made by the Division Bench of this Court in case of Sub Divisional Soil Conservation Officer (supra) are as under:

"If the appellants had relied upon termination of appointment by efflux of time and waited upto21.10.1985, the situation would have been different and in that case, the appellants would have been on a firmer ground. But, unfortunately, for them, the respondent's service are terminated not by efflux of time under the last appointment order of 29 days but prior thereto by way of intimation terminating his services after office hours on 19.10.1985. Consequently, on the date of such intimation, respondent who was a temporary Government servant was sought tobe terminated and so rule 33(1)(b) got attracted. It must, therefore, be held that rule 33(1)(b) got attracted on the facts of this case. It cannot be disputed that one month's notice as required by rule 33(1)(b) was not given to the respondent while terminating his service on 19.10.1985.

In para 5 of the said decision, it has been

further held as under:

" Learned Counsel for the appellant placed strong reliance on the proviso to the said rule. He submitted that at the highest, respondent would be entitled to two days' salary or for that matter,full one month's salary, if such notice was not given. But the impugned order cannot be voided. It is not possible to agree with this contention in view of the Supreme Court decision in case of Raj Kumer v. Union of India, AIR 1975 SC 536, wherein an identical rule 5(1)(a) of the Central Services (Temporary Service) RUles, 1965 came to be interpreted by the Supreme Court; proviso therein was similarly worded and it was provided that services of any such Government servant may be terminated forthwith by payment. Interpreting these words employed in the proviso,

the Supreme Court held that this showed that the payment was a condition of the termination of service 'forthwith' and once it is not done, the order would get voided."

The relevant para of the unreported decision of the Division Bench of this Court in Letters Patent Appeal Nos. 160 of 1990 to 166 of 1990 dated 20.9.1991 is as under:

"It is an admitted position that the writ petitioners in all the special civil applications (respondents in all the LPAs) were appointed as temporary servants in the Panchayat Service. Their services were, however, terminated without making payment of one week's salary, as was necessary under rule 33(1)(a) and (b) of the Bombay Civil Service RUles (hereinafter referred to as "BCSR"). The validity of such order of termination of service of temporary servants was challenged in the aforesaid Special Civil Applications and relying on the decision of the Supreme Court, made in the case of Raj Kumar v. Union of India and Others, reported in AIR 1976 SC 536, the learned Judge allowed the Special Civil Applications and set aside the order of termination of service. Mr. Vakharia, learned Counsel appearing for the appellants, has contended that the services of the respondents herein were essentially temporary and intended as a stop gap appointment. He has also contended that the Supreme Court, in the later decision of Raj Kumar v. Unionof India and Others reported in AIR 1976 SC 1116, on review of the earlier decision made in Raj Kumar's case, has noted that if there is any provision in the rule,under which termination can be effected, such termination does not become bad. He has also contended that, in any event, if it is held by the Court that the payment of one week's salary was a condition precedent for terminating the service, the appellants would be permitted to correct the mistake. It, however, appears to us, that there is no such provision in the rule,as was considered by the Supreme Court, when it reviewed the earlier decision in Raj Kumar's case so far as BCSR is concerned.- Accordingly, the decision of the Supreme Court, reported in AIR 1975 SC 536 is applicable in the facts and circumstances of

the case. A similar question had also been taken into a consideration by the Divsion Bench of this Court in the case of Sub Divisional Soil COnservbation Officer versus MM Saiyad reported in 1990(1) GLR 495. In the aforesaid circumstances, there is no occasion to interfere with the order passed by the learned Single Judge and the appeals, therefore, fail and are dismissed without any order as to costs. "

Following the decision of the Division Bench of this court in case of Sub Divisional Soil Conservation Officer, Idar v. MM Saiyad (supra), it has been held by this Court in case of Dhirubhai Jethabhai Patel and Other (supra) as under:

" The first point which has been canvassed in support of the petitioners' cause is that in issuing the impugned order of termination the provision contained in Rule 33(1)(a) & (b) is not complied with. The rules speak about the termination of a temporary Government servant by a notice in writing given to him by the appointing authority and period of such notice is one week in case of service less than one year, in support of the submission that the aforesaid rule will be applicable to the case of the petitioners a decision of Division Bench of this court in the case of Sub Divisional Soil Conservation Officer, IDAR v. MM Saiyed, reported in 1990(1)= 31(1) GLR at page 495 has been relied upon. In that case, the original petitioner was employed as clerk cum tracer by the Sub Divisional Soil Conservation Officer in Sabarkantha District. He was given various appointment orders of 29 days each, the first order being of 3.7.1984, series of orders in succession followed and there was a continuous link till the last order of 29 days from 29.9.1995 upto 21.10.1985. Before the period of 29 days of the last order could run out the services of the petitioner there were terminated by the order of termination in question in that matter. This Court held that rule 33(1)(b) of the BCSR was applicable and was violated.

Reference has also been made to another decision of this Court in case of Arunkumar M. Mehta v. State of Gujarat reported in 1991 (2) GLR (UJ) 1,

where the order of termination without observing rule 33(1)(b) of the BCSR was held to be illegal.

A learned Single of this Court in Taufikhhussein G. Sindhi v. Deputy Industries Commissioner, reported in 1993 (1) GLH (UJ) 15, has also held that notice as contemplated in Rule 33(1) of the BCSR must be given or wages in lieu thereof must be paid before terminating service of temporary Government servant and failure to comply with the rule would invalidate the termination order."

Therefore, in view of the law which has been settled by this Court in respect of the fact that the temporary Government Employees, Government employees appointed on 29 days' basis and also on work charge establishment and completed more than one year service continuously are entitled to the protection given under Rule 33(1)(b) of the BCSRs, the orders of termination of services of each petitioner herein are required to be quashed and set aside since in the present cases, each petitioner has completed more than one year of service as a temporary Government employee and at the time of termination of their services, no such notice as contemplated under rule 33(1)(b) of the BCSRs was served.

The decision of the apex Court in case of State of Gujarat and another v. P.J.Kampavat and others reported in AIR 1992 SC pg.1685 is relied upon by the respondents. I have considered the said decision. Considering the facts of the present case, said decision is not applicable to the present case because the appointees therein were appointed by the Chief Minister and Ministers appointing the persons of their choice in service of their Establishment for a limited period conterminous with the concerned minister's tenure and they were also asked to execute an undertaking in the above terms which they did. The appointment was purely a contractual appointment conterminous with the tenure of the Minister's establishment, at whose choice and instance they were appointed. It has been held in the said decision that the appointees therein could not be deemed to be temporary Government servants within the meaning of the Bombay Civil Service Rules in as much as the terms of their appointment clearly amount to an otherwise provision within the meaning of the non obstante clause. Here, in the instant case, it is not so. Therefore, looking to the facts stated in the decision of the apex court and the facts of the present case are altogether different. Therefore,the said decision of the apex court is not applicable to the case

of the present petitioners, on facts.

In view of these facts, the orders of termination of the services of the petitioners passed by the respondents in each petition are required to be quashed and set aside. In such event, the question would be about necessary consequential relief of reinstatement and back wages for the intervening period. In petitions, the termination is relating to the year 1987 and in one petition namely special civil application No. 6571 of 1988, the termination is dated 29.8.1992. Therefore, in two petitions which were filed on 4.1.1994, rule was issued by this court on 24.6.1994. Thus, the petitioners in special civil applications nos. 411 of 1994 and 417 of 1994, the petitioners have approached this Court after the period of seven years. Therefore, taking into consideration the delay on the part of the petitioners in approaching this court and also considering the fact that the petitioners were appointed as a temporary government employees on 29 days' basis and on ad hoc basis and also taking into consideration the fact that more than six years have passed to decide these petitions, I am of the opinion that it would met the ends of justice if the petitioners are directed to be reinstated in service with continuity of service and with 50% of back wages from 1.1.1995. It is also necessary to clarify that if the respondents are not in a position to reinstate the petitioners on the posts in question, in such event, it will be open for the respondents to reinstate the petitioners on the lower post in pay scale. It is also necessary to direct the respondents to consider the case of the petitioners for regularization of their services in light of letter dated 27.2.1991 at annexure "L" in special civil application no. 6571 of 1988 for each petitioners.

In the result, all these three petitions are allowed as under:

Special Civil Application No. 6571 of 1988 is allowed and the order of termination dated 29.8.1992 is hereby quashed and set aside and the respondents are directed to reinstate the petitioner on the same post or on any other equivalent post or on the lower post in pay scale with continuity of service and with 50 per cent of back wages from 1.1.1995 till the date of actual reinstatement and the respondents are also directed to consider the case of the petitioner for regularization of his service in light of the letter dated 27.2.1991 annexure "L" to the petition. The respondents are also directed to reinstate the petitioner in service within

two months from the date of receipt of certified copy of this order and to pay 50% of the back wages as directed above within the period of six months from the date of receipt of certified copy of this order and to consider the case of the petitioner for regularization of his service within the period of six months from the date of receipt of certified copy of this order.

Special civil application No. 411 of 1994 is allowed and the order of termination dated 25.2.1987 is hereby quashed and set aside. The respondents are directed to reinstate the petitioner on the same post or on any other equivalent post or on the lower post with continuity of service with 50 per cent of the back wages from 1.1.1995 till the date of reinstatement. The respondents are further directed to consider the case of of the petitioner for regularization of his service in light of letter dated 27.2.1991 annexure "L" to the petition. The respondents are further directed to reinstate the petitioner within the period of two months from the date of receipt of certified copy of this order and to pay 50 % of the back wages within six months from the date of receipt of certified copy of the this order and to consider the case of the petitioner for regularization of his service within the period of six months from the date of receipt of the certified copy of the this order.

Special Civil Application No. 417 of 1994 is allowed and the order of termination dated 2.3.1987 is hereby quashed and set aside. The respondents are directed to reinstate the petitioner in service on the same post or on any other equivalent post or on the lower post with continuity of service and with 50 per cent of the back wages from 1.1.1995 till the date of reinstatement. The respondents are further directed to consider the case of the petitioner for regularization of his service in light of letter dated 27.2.1991 annexure "L" to the petition. The respondents are also directed to reinstate the petitioner in service within two months from the date of receipt of certified copy of this order and to pay the 50% of the back wages as directed above within the period of six months from the date of receiving the certified copy of this order and to consider the case of the petitioner for regularization of his service within the period of six months from the date of receipt of certified copy of this order.

In all these three petitions, rule is made absolute accordingly with no order as to costs. Direct service is permitted.

Dt. 10.3.2000. (H.K.Rathod, J.)